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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,716	03/29/2004	Manabu Matsuyama	1122.70208	1440
7590 05/08/2007				
Patrick G. Burns, Esq. GREER, BURNS & CRAIN, LTD. 300 South Wacker Dr., Suite 2500 Chicago, IL 60606				
			EXAMINER KENDALL, CHUCK O	
			ART UNIT 2192	PAPER NUMBER
			MAIL DATE 05/08/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/811,716

Applicant(s)

-MATSUYAMA, MANABU

Examiner

Chuck O. Kendall

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

1. This is in response to Application filed 03/29/04.
2. Claims 1 – ⁸~~20~~ have been examined.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 1 – ⁸~~20~~ are rejected under 35 U.S.C. 102(e) as being anticipated by Buzbee US 5,815,720.

Regarding claim 1, Buzbee anticipates a method for translating a program stated in a programming language to generate a computer-executable object program using statistical information on variables (FIGURE 2, see items 31 – 38), the method comprising the steps of:

adding to a program, during the execution of the program in a first round of program translation (FIGURE 6, item 52), a sequence of instructions for performing statistical processing to record into a record a maximum of two sets of values assigned to variables in the procedure and the frequencies of assignment of the values and

Art Unit: 2192

another sequence of instructions for primary profile output processing to supply information stored in the record as primary profile information after the end of the execution of the program (FIGURE 6, see profile information, optimized application and all associated text);

storing the primary profile information that has been supplied into a storage unit after the end of the first round of program execution (3:20 – 25);

reading in the primary profile information and setting the values stored in the primary profile information into the record (3:10 – 15, shows storing the code in memory, also see retrieving the information 4:55 – 60);

adding to the program, in a second round of program translation, a sequence of instructions for performing statistical verification processing to record into the record the appearance frequencies of values set in the record and the execution frequency of the procedure including processing to assign the values to variables and another sequence of instructions for performing final profile output processing to supply the appearance frequencies and the execution frequency stored in the record as final profile information after the end of the execution of the program (2:29 – 35); and

storing the final profile information that has been supplied into the storage unit after the end of the second round of program execution (2:35 – 45, see special version of object code).

Regarding claim 2, the method according to Claim 1, further comprising the steps of:

reading the final profile information in calculating, in a third round of program translation, the appearance frequencies of the values on the basis of the appearance frequencies of the values acquired from the final profile information and the execution frequency of the procedure including the processing to assign the values to variables and processing to achieve optimization into performing an operation predictable from the values when the appearance frequencies are 50% or more (6:65 – 7:5, see frequency profiling).

Regarding claim 3, the apparatus version of claim 1, see rationale above as previously discussed.

Regarding claim 4, the apparatus version of claim 2, see rationale above as previously discussed.

Regarding claim 5, the computer program version of claim 1, see rationale above as previously discussed.

Regarding claim 6, the computer program version of claim 2, see rationale above as previously discussed.

Regarding claim 7, the recording medium version of claim 1, see rationale above as previously discussed.

Regarding claim 8, the recording medium version of claim 2, see rationale above as previously discussed.

Art Unit: 2192

Correspondence information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Kendall whose telephone number is 571-2723698. The examiner can normally be reached on 10:00 am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-2723695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ck.

Chuck Kendall

3/22/07